

Senate Journal

Second Regular Session of the Fifty-fifth Legislature of the State of Oklahoma

Sixty-third Legislative Day, Friday, May 20, 2016

The Senate was called to order by Senator Ford.

Roll Call:

Present: Allen, Anderson, Barrington, Bass, Bice, Bingman, Boggs, Brecheen, Brooks, Brown, Crain, Dahm, David, Dossett, Fields, Floyd, Ford, Fry, Griffin, Halligan, Holt, Jech, Jolley, Justice, Loveless, Marlatt, Matthews, Mazzei, Newberry, Paddack, Pittman, Quinn, Schulz, Sharp, Shortey, Silk, Simpson, Smalley, Sparks, Standridge, Stanislawski, Sykes, Thompson, Treat, Wyrick and Yen.—46.

Excused: Garrison and Shaw.—2.

Senator Ford declared a quorum present.

The prayer was offered by Reverend Don Wolf, Saint Eugene Catholic Church, Oklahoma City, the guest of Senator Bice.

REPORT OF ENGROSSED AND ENROLLED MEASURES

SBs 1496, 1579, 1599 and 1605 were each correctly enrolled and after fourth reading, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

Senator Schulz moved that the Senate recess to the Call of the Chair, which motion was declared adopted.

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The Senate reconvened with Senator Ford presiding.

Senator Ford questioned the presence of a quorum and ordered the roll called, following which a quorum was declared present.

PENDING CONSIDERATION OF CCR

The **CCR** on **SB 929** was adopted upon motion of Senator Sharp.

SB 929, as amended in conference, was read at length.

On the question of passage of the bill, the vote resulted as follows:

Aye: Barrington, Bice, Bingman, Brooks, Brown, Fields, Ford, Fry, Griffin, Halligan, Holt, Justice, Loveless, Schulz, Sharp, Shortey, Silk, Simpson, Sykes, Wyrick and Yen.--21.

Nay: Boggs, Brecheen, Dahm, Dossett, Floyd, Jolley, Matthews, Mazzei, Newberry, Paddack, Quinn, Smalley, Sparks, Standridge, Stanislawski, Thompson and Treat.--17.

Excused: Allen, Anderson, Bass, Crain, David, Garrison, Jech, Marlatt, Pittman and Shaw.--10.

The bill failed.

Pursuant to Rule 8-32, Senator Sharp served notice that the vote be reconsidered whereby **SB 929** failed.

PENDING CONSIDERATION OF CCR

The **CCR** on **SB 615** was adopted upon motion of Senator Sparks.

SB 615, as amended in conference, was read at length.

On the question of passage of the bill, the vote resulted as follows:

Aye: Barrington, Bice, Bingman, Brooks, Dossett, Fields, Floyd, Ford, Fry, Griffin, Halligan, Holt, Justice, Loveless, Matthews, Paddack, Quinn, Schulz, Sharp, Shortey, Silk, Simpson, Smalley, Sparks, Standridge, Stanislawski, Thompson, Wyrick and Yen.--29.

Nay: Boggs, Brecheen, Brown, Dahm, Jolley, Mazzei, Newberry and Sykes.--8.

Excused: Allen, Anderson, Bass, Crain, David, Garrison, Jech, Marlatt, Pittman, Shaw and Treat.--11.

The bill passed.

SB 615, together with the conference committee report thereon, was ordered transmitted to the Honorable House.

PENDING CONSIDERATION OF CCR

The **CCR** on **SB 398** was adopted upon motion of Senator Simpson.

SB 398, as amended in conference, was read at length.

On the question of passage of the bill, the vote resulted as follows:

Aye: Barrington, Bice, Bingman, Boggs, Brecheen, Brooks, Brown, Dahm, Dossett, Fields, Floyd, Ford, Fry, Griffin, Halligan, Holt, Jolley, Justice, Loveless, Matthews, Mazzei, Newberry, Paddack, Quinn, Schulz, Sharp, Shortey, Silk, Simpson, Smalley, Sparks, Standridge, Stanislawski, Sykes, Thompson, Treat, Wyrick and Yen.--38.

Excused: Allen, Anderson, Bass, Crain, David, Garrison, Jech, Marlatt, Pittman and Shaw.--10.

The bill passed.

SB 398, together with the conference committee report thereon, was ordered transmitted to the Honorable House.

MESSAGES FROM THE HOUSE

Advising rejection of **CCRs** to the following bills, requesting further conference and naming same House conferees as follows:

HB 2205 - Conference Committee on Insurance

HB 2773 - Conference Committee on Alcohol, Tobacco and Controlled Substances

Advising passage of and returning the following Engrossed bill:

SB 1606

The above-numbered measure was referred for enrollment.

REPORT OF ENGROSSED AND ENROLLED MEASURE

SB 1606 was correctly enrolled and after fourth reading, properly signed and ordered transmitted to the Honorable House for signature of the Speaker.

MESSAGES FROM THE HOUSE

Advising fourth reading of and transmitting for signature Enrolled **HBs 2360, 2946, 2967** and **3126**.

The above-numbered enrolled measures were, after fourth reading, properly signed and ordered returned to the Honorable House.

Advising fourth reading of and returning Enrolled **SBs 1496, 1579, 1599, 1605** and **1606**.

The above-numbered enrolled measures were referred to the Governor.

Advising the signing of and transmitting for signature Enrolled **HCR 1020**.

The above-numbered enrolled measure was properly signed and ordered returned to the Honorable House.

Advising conference granted on Engrossed **SB** and naming House conferees as follows:

SB 1499 - GCCA

CONFERENCE COMMITTEE REPORTS

Transmitting the following bills, together with conference committee reports thereon, advising adoption of conference committee reports and passage of measures as amended:

HB 2763 - add as coauthors Senators Marlatt, Silk, Stanislawski and Smalley and Representatives Roberts (Dustin), Russ, Nelson, Ownbey, Caldwell, McDaniel (Randy) and Bennett, add as coauthors Senator Mazzei and Representatives Kannady, Walker, Lepak, Faight, Wallace, Billy, Hall, Johnson, Jordan, and Nollan.

HB 3159 - add as coauthors Representatives Biggs and Cleveland

Conference committee reports were read on the above-numbered bills.

PENDING CONSIDERATION OF HAS

HAs to SB were rejected upon motion of Senator Schulz, conference requested, and Senate conferees appointed as follows:

SB 1499 – Standridge, Brown, Yen, Crain, Quinn, Sparks, Bass

**PENDING SENATE ACTION
HOUSE REQUEST FOR CONFERENCE**

Upon motion of Senator Schulz, the request of the Honorable House for further conference was ordered granted and same Senate conferees appointed as follows:

SB 526 – Shortey, Barrington, Brooks, Brecheen, Shaw, Paddack, Pittman

SB 587 – Shortey, Newberry, Dahm, Halligan, Yen, Sparks, Wyrick

HB 2205 – Sykes, Bingman, Jolley, Marlatt, Treat, Floyd, Sparks

HB 2380 – David, Newberry, Bice, Silk, Fields, Floyd, Pittman

HB 2773 – David, Griffin, Yen, Crain, Bass, Standridge, Pittman

CONFERENCE COMMITTEE REPORTS SUBMITTED

Conference committee reports were read on the following bills:

SB 1070

SB 1185

SB 1202

Senator Schulz moved that when the clerk's desk is clear, the Senate stand adjourned to convene Monday, May 23, 2016, at 1:30 p.m., which motion prevailed.

SECOND READING

The following were read for the second time and referred as indicated:

HB 3205 – Direct To Calendar

HB 3208 – Direct To Calendar

SB 1619 – Joint Committee on Appropriations and Budget

FIRST READING

The following was introduced and read the first time:

SR 85 – By Pittman, Matthews, Barrington and Fry.

A Resolution congratulating Carl Holmes as the recipient of the 2016 Congressional Fire Services Institute/Motorola Solutions Mason Lankford Fire Service Leadership Award; recognizing the success of the Carl Holmes Executive Development Institute and commending Carl Holmes for his 65 years and lifelong dedication to the Oklahoma City Fire Department; and directing distribution.

CHANGE IN AUTHORS/COAUTHORS

The following measures were authored/coauthored:

SB 1185 - Coauthored by Johnson

SB 1577 - Coauthored by Mazzei

SB 1619 - Coauthored by Dahm

Coauthored by Murphey

Coauthored by Stanislawski

Coauthored by Sykes

Coauthored by Brumbaugh

Coauthored by ODonnell

Coauthored by Allen

Coauthored by Silk

SCR 43 - Coauthored by ODonnell

Coauthored by Stanislawski

Coauthored by Silk

Coauthored by Brumbaugh

Coauthored by Allen

SJR 43 - Coauthored by Silk

Remove as coauthor Senator Silk

Coauthored by Allen

Remove as coauthor Senator Allen

SR 73 - Remove as author Senator Schulz; authored by Bingman

SR 74 - Remove as author Senator Schulz; authored by Bingman

SR 76 - Coauthored by Schulz

Remove as author Senator Schulz; authored by Bingman

SR 77 - Coauthored by Schulz

Remove as author Senator Schulz; authored by Bingman

SR 78 - Coauthored by Schulz

Remove as author Senator Schulz; authored by Bingman

SR 79 - Coauthored by Schulz

Remove as author Senator Schulz; authored by Bingman

SR 80 - Coauthored by Schulz

Remove as author Senator Schulz; authored by Bingman
SR 81 - Coauthored by Schulz
Remove as author Senator Schulz; authored by Bingman
SR 82 - Coauthored by Schulz
Remove as author Senator Schulz; authored by Bingman
SR 83 - Coauthored by Schulz
Remove as author Senator Schulz; authored by Bingman
SR 85 - Coauthored by Matthews, Barrington, Fry
Authored by Senator Pittman

MESSAGES FROM THE GOVERNOR

Advising her approval May 20, 2016, of Enrolled **SBs 796, 1282, 1287, 1357** and **1495**.

Advising her veto May 20, 2016, of Enrolled **SBs 1142** and **1552**.

The veto messages read as follows:

May 20, 2016

To The Honorable President Pro Tempore
And Members Of The Oklahoma Senate
Second Session Of The
Fifty Fifth Oklahoma Legislature

ENROLLED SENATE BILL NO. 1142:

This is to advise you, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 1142 (Bill).

Feral swine is an invasive species that inflicts significant damage on Oklahoma ranch and farmland, and can hurt or even kill domestic livestock and other wildlife. Although I support the intent of this Bill, which is to make it easier to remove or attempt to remove feral swine, the Bill's real-world application to public property like state parks and Wildlife Management Areas (WMAs) would create an unreasonable public safety threat and a conservation crisis.

The Bill includes several measures—eliminating the permitting requirement for individuals who want to exclusively shoot feral hogs, authorizing nighttime removal, and allowing the use of certain technology when taking feral swine (motor-driven land conveyances, spotlights, and night-vision equipment)—that, in combination, make public hunting lands an unreasonably unsafe place to be. It is easy to imagine a state hunting ground where individuals want to use the land in different and mutually incompatible ways: for instance,

feral swine removal and either turkey hunting or camping. If this Bill were enacted, individuals attempting to take feral swine could mistakenly target turkey hunters in the pre-dawn hours, or a stray bullet could inadvertently strike a camper's tent. Without any requirement to notify park rangers or game wardens, and without a clear administrative process for cordoning off incompatible uses in a logical way, tragedy can and will occur.

Similarly, the Bill will likely undercut enforcement efforts to curtail illegal poaching. Any individual who wants to spotlight deer or hunt out-of-season will have a ready excuse if approached by a game warden, at least in the absence of an incriminating carcass. Responsible wildlife management, for today and for tomorrow's hunters, is a constitutional imperative that must not be significantly disadvantaged, even for a well-intentioned purpose.

In conclusion, although I am vetoing Senate Bill 1142 because of its detrimental impacts on public property, I will direct the Oklahoma Department of Wildlife Conservation via Executive Order 2016-16 to streamline depredation permits for use on private land. Although trapping feral swine is the most effective means of removal, we must be willing to employ every available method of elimination if we want to eradicate this destructive nuisance. In this manner, Oklahoma will be able to maximize safe and responsible feral swine removal and preserve the core objectives of the Bill, all within the parameters of current, controlling law.

By the Governor of the State of Oklahoma
/s/ Mary Fallin

May 20, 2016

To The Honorable President Pro Tempore
And Members Of The Oklahoma Senate
Second Session Of The
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ENROLLED SENATE BILL NO. 1552:

This is to advise you, pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution to approve or object to legislation presented to me, I have VETOED Senate Bill 1552.

Senate Bill 1552 declares the performance of an abortion, except as "necessary to preserve the life of the mother" as "unprofessional conduct" for a physician, and prohibits any physician participating in the performance of an abortion from obtaining or renewing a license to practice medicine in this State. Additionally, Senate Bill 1552 provides for a criminal penalty for any person, including licensed physicians, who perform an abortion for any reason other than when "necessary to preserve the life of the mother."

Although Senate Bill 1552 excludes a mother's threat of self-harm from the exception preserving the life of the mother, Senate Bill 1552 does not define "necessary to preserve the life of the mother." The absence of any definition, analysis or medical standard renders this exception vague, indefinite and vulnerable to subjective interpretation and application. The Oklahoma Court of Criminal Appeals has clearly stated, "Legislation which creates and provides for the punishment of criminal offenses should be so clear and explicit that all persons of ordinary intelligence who are subject to these penalties may understand their provisions. No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes." *State v. Madden*, 1977 OK CR 155, ¶9, 562 P.2d 1177, 1178. Further, the United States Supreme Court has stated, "The constitutional requirement of definiteness is violated by a criminal statute that fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute. The underlying principle is that no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed." *U.S. V. Harris*, 347 U.S. 612, 617, 74 S.Ct. 808, 812, 98 L.Ed 989.

Current law provides a clear and definite concept of felony criminal liability for any person who performs or induces an abortion who is not a licensed physician. This provision is an important and necessary limitation and prohibition to those who may provide abortion services.

During my administration, the Legislature has approved and I have signed no less than 18 bills supporting pro-life and pro-family values and protecting the health and lives of mothers and their unborn children. While I consistently have and continue to support a re-examination of the United States Supreme Court's decision in *Roe v. Wade*, this legislation cannot accomplish that re-examination. In fact, the most direct path to a re-examination of the United States Supreme Court's ruling in *Roe v. Wade* is the appointment of a conservative, pro-life justice to the United States Supreme Court. The vague and ambiguous expansion of felony criminal liability that fails to define a critical element of the crime places this legislation squarely in the constitutional analysis of *criminal* liability. For these reasons, I have vetoed Senate Bill 1552.

By the Governor of the State of Oklahoma
/s/ Mary Fallin

Pursuant to the Schulz motion, the Senate adjourned at 4:50 p.m. to meet Monday, May 23, 2016, at 1:30 p.m.